



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants : Schwarz et al. JUL 16 1981
 Serial No. : 118,529 Examiner: A. Lieberman
 Filed : February 4, 1980 Group Art Unit: 142
 For : TISSUE ADHESIVE

June 30, 1981

ELECTION

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Hon. Commissioner of Patents and Trademarks

Washington, D.C. 20231

GROUP 140

Sir:

In an Office Action dated June 2, 1981, the Examiner made a restriction requirement between claims 1-11 (Group I) drawn to a protein-containing tissue adhesive or method of making it, and claims 12-14 (Group II) drawn to a method of seamlessly connecting human or animal tissue using the tissue adhesive of Group I. As a response to this restriction requirement, the applicants elect the Group I claims, but respectfully traverse the restriction requirement.

The Examiner based the restriction requirement on the allegation that the method of the Group II claims is not restricted to the use of the adhesive of Group I alone, as is evident from claims 13 and 14. This position is clearly without merit. Claim 12 calls for a "method of using the tissue adhesive set forth in claim 1 for

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6/30/81


seamlessly connecting human or animal tissue." Thus, this is specifically restricted to the use of the adhesive of Group I.


Claims 13 and 14 are also restricted to the use of Group I adhesive, except that the method requires the addition of thrombin and calcium chloride to the adhesive. The addition of these extra ingredients does not detract from the fact that Group I adhesive is required to practice the inventive method of the Group II claims.

In his rejection the Examiner also asserts that the inventions of Groups I and II have acquired a separate status in the art and the fields of search are not co-extensive. This position is also unsupportable. The existence of a tissue adhesive clearly implies that it must have been made by some process and that it must be useful for connecting tissue. Therefore, the product, the method of making it and the application of the product to a useful purpose all amount to a single invention, provided the method of making it and applying it are limited in the claims to that product. Since such is the case with the present claims, there is only one invention.

In view of the foregoing remarks, it is readily apparent that the restriction requirement should be withdrawn and all of the claims examined on the merits.

Respectfully submitted,


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